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6	BEFORE THE	
7	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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9	In the Matter of the Statement of Issues C	Case No. 2012-54
1 0	Against:	2012-04
11	JACQUELINE DEN BLEYKER 110 Lincoln Drive	TATEMENT OF ISSUES
12	Sausalito, California 94965	TATEMENT OF ISSUES
13	Applicant.	
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15	Complainant alleges:	
16	<u>PARTIES</u>	
17	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in	
18	her official capacity as the Executive Officer of the Board of Registered Nursing, Department of	
19	Consumer Affairs.	
20	2. On or about February 24, 2011, the Board of Registered Nursing, Department of	
21	Consumer Affairs received an application for a Registered Nurse License from Jacqueline Den	
22	Bleyker (Applicant). On or about February 22, 2011, Jacqueline Den Bleyker certified under	
23	penalty of perjury to the truthfulness of all statements, answers, and representations in the	
24	application. The Board denied the application on May 20, 2011.	
25	<u>JURISDICTION</u>	
26	3. This Statement of Issues is brought before the Board of Registered Nursing (Board),	
27	Department of Consumer Affairs, under the authority of the following laws. All section	
28	references are to the Business and Professions Code unless otherwise indicated.	
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STATUTORY PROVISIONS

- 4. Section 2736 of the Business and Professions Code provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of the Business and Professions Code.
 - 5. Section 480 of the Business and Professions Code states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.
- "(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

- "(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."
 - 6. Section 2761 of the Business and Professions Code, in pertinent part, states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
 - 7. Section 2762 of the Business and Professions Code, in pertinent part, states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

8. California Code of Regulations, title 16, section 1444, provides, in pertinent part that a conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

- 9. Applicant's application is subject to denial under Business and Professions Code sections 480(a)(1) and 2761(f) in that she was convicted of a crime or act that is substantially related to the qualifications, functions, or and duties of a registered nurse. The circumstances are as follows:
- a. On or about May 19, 2009, in a criminal proceeding entitled <u>People of the State</u> <u>Colorado v. Jacqueline Denbleyker</u>, Jefferson County Court Case No. 09T3826, the Applicant was convicted by her plea of guilty for violating section 42-4-1007(1)(a) C.R.S. (Lane Usage Violation), an infraction, and violating section 42-4-1301(1)(b) C.R.S. (Driving While Ability Impaired), a misdemeanor.
- b. On or about February 28, 2009, the Applicant was arrested in Jefferson County Colorado for violating the following laws: Section 42-4-901(2) C.R.S. (failure to turn from turn only lane); Section 42-4-1007(1)(c) C.R.S. (failure to drive in a single lane); Section 42-4-1301(1)(b) C.R.S. (driving a motor vehicle while under the influence of alcohol or drugs or both).
- c. On or about May 19, 2009, the Applicant was sentenced to 24 hours of community service; placed on probation until May 19, 2011; ordered to pay fines and fees in the amount of \$577.00; and ordered to participate in a Supervised Alcohol Program. The Terms and Conditions of Sentence reported that, with regard to the driving while ability impaired conviction, the Applicant's Blood Alcohol Content (BAC) was 153%. On or about June 7, 2010, the court granted the applicant's petition for early termination of her probation and terminated the applicant's probation term.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct – If Act Committed by Licentiate)

- 10. Applicant's application is subject to denial under section 480(a)(3) of the Business and Professions Code in that she committed acts which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. The circumstances are as follows:
- a. As set forth in paragraph 9 above, the Applicant would be subject to disciplinary action under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions Code section 2762(b), in that on or about February 28, 2009, she used alcoholic beverages to an extent or in a manner dangerous or injurious to herself or others.
- b. As set forth in paragraph 9 above, the Applicant would be subject to disciplinary action under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions Code section 2762(c), in that on or about May 19, 2009, she was convicted of a crime involving the consumption of alcoholic beverages.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Jacqueline Den Bleyker for a Registered Nurse License;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 7-25-11

Executive Officer

Board of Registered Nursing
Department of Consumer Affairs

State of California

Complainant